



Department of Corrections  
**ADMINISTRATIVE BULLETIN**

**Subject: CLARIFICATION OF  
REVISED DISCIPLINARY  
REGULATIONS**

**Number:**

**95/12**

**Date Issued:**

**June 2, 1993**

**Cancelled Effective:**

The purpose of this Administrative Bulletin is to highlight and clarify revisions to the Department's Disciplinary Regulations which take effect June 5, 1995. The information that follows will focus on the principal changes contained in the regulations. It is recommended that a thorough reading of the new regulations be made as presented in the Notice of Change to Director's Rules 95/12.

### **CONFIRMATION OF CREDIT FORFEITURE**

The revised regulations eliminate the requirement for a classification committee to confirm a credit forfeiture which has been assessed as part of a disciplinary hearing. The signature of the Chief Disciplinary Officer on the CDC Form 115, Rules Violation Report, serves as the approval of the disciplinary action.

Since the Senior Hearing Officer (SHO) will be the final staff person to see the inmate in regards to the disciplinary action, it is incumbent upon the SHO to provide the inmate with their appeal **and credit restoration rights**.

The inmate's subsequent need to be seen by a classification committee will be determined by staff based upon any program considerations that might result from the disciplinary action. These reasons would include, but not be limited to: required job assignment change, classification score adjustments that place an inmate out-of-level, housing impact, privilege group change, or custody level adjustments.

Commensurate with the elimination of classification committee confirmation of credit loss, the first level of appeal in disciplinary actions will be skipped and appeals in disciplinary actions will go directly to second level review.

### **CREDIT RESTORATION**

Credit restoration shall be permanently forfeited if an inmate is found guilty of a rule violation within the required disciplinary-free period. This eliminates "stacking" whereby inmates would utilize one disciplinary-free period to restore credits from multiple rule violations. It also requires the inmate to meet the disciplinary-free period immediately subsequent to the rule violation. The disciplinary-free period shall commence the day following issuance of the CDC Form 115.

In order to provide an explanation of the transition from the old to the revised rules concerning credit restoration on June 5, 1995, the following applies:



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Inmates who have received a CDC Form 115 prior to June 5, 1995 and have completed the necessary disciplinary-free window, must submit written application for any eligible credit restoration and restoration principles of the old rules will apply. Inmates who have received a CDC Form 115 prior to June 5, 1995 and have not completed the requisite disciplinary-free window, must submit written application upon completion of established disciplinary-free window, and then, credit restoration principles of the old rules will apply. Inmates who receive a CDC Form 115 on June 5, 1995, or thereafter, will be processed under the new revised credit restoration rules.

#### **CONTROLLED SUBSTANCE OFFENSES**

Being under the influence (use) of alcohol, a controlled substance, unauthorized drug, or intoxicant in an institution, community correctional facility, or camp is added as a Division D level Serious Rule Violation. This charge is appropriate when there is evidence that the inmate has used a controlled substance but the evidence does **not** include a positive laboratory verification of use. Such evidence would include, but not be limited to: a positive sobriety test, indicators of use such as slurred speech, dilated pupils, impaired mobility, or needle marks. In addition, such evidence would result in an order for an inmate to take a urine test.

If an inmate refuses a urine test in which the order is based upon the California Code of Regulations (CCR), Title 15, Division 3, Section 3290 (c), the inmate may be charged with use of a controlled substance, a Division D level offense. With regulation changes made to CCR Section 3290, there would no longer be a disobeying orders charge resulting from a refusal to take a urine test.

If "use" can be substantiated by a positive urine test, the charge of possession of a controlled substance, a Division B level offense is warranted.

If an inmate has been found guilty of a rule violation involving controlled substances, the disposition **shall** include an order for the inmate to submit to random drug testing during the required disciplinary free period. Included are charges of: use, possession, sale, trafficking or introduction of controlled substances, drugs or drug paraphernalia, and refusals to submit to a test for controlled substances or drugs.



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### **INVESTIGATIVE EMPLOYEE/STAFF ASSISTANT**

The revised regulations differentiate the specific circumstances for the assignment of an Investigative Employee or Staff Assistant. Added is the requirement that a Staff Assistant be assigned when an inmate is non-English speaking.

### **REFERRAL FOR CRIMINAL PROSECUTION**

The requirement is to convene a disciplinary hearing within **15** days upon receipt of an inmate's written revocation of a request to postpone a hearing **is eliminated**. Receipt of this revocation will require that the disciplinary hearing be held in 30 days.

The institution review of an incident for possible referral to the District Attorney (DA) for prosecution **will stay time constraints** in instances where the inmate has postponed the hearing pending DA referral outcome. In these postponement cases, receipt of a written notice from the institution head or designee that the inmate's misconduct will not be referred will require that the disciplinary hearing be held within 30 days of notice.

### **MENTAL HEALTH EVALUATIONS**

Inmates committing acts of self mutilation or attempted suicide shall be referred for a mental health evaluation prior to documenting the misconduct. If the mental health evaluation determines that it was an actual suicide attempt, a CDC Form 115 shall not be written and a CDC Form 128-B, General Chrono, shall be prepared for inclusion in the inmate's central file.

### **DISCIPLINARY OFFENSE REVISIONS**

- Tattooing has been changed from an Administrative to a Serious Rule Violation (Division F level).
- Gambling has been changed from an Administrative to a Serious Rule Violation (Division F level).
- Self-mutilation or attempted suicide for purposes of manipulation has been added as a Serious Rule Violation (Division F level).



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- Threat of force or violence against a public official has been added as a Serious Rule Violation (Division B level). Public official is defined in California Penal Code Section 76.
- The possession of weapon stock has been added as a Serious Rule Violation (Division C level).
- Possession and manufacture of alcohol are now both Serious Rule Violations (Division C level).
- Willfully resisting, delaying or obstructing any peace officer in the performance of duty will be a Serious Rule Violation (Division D level).
- The Division D level serious rule violation of battery on an inmate has been divided into two separate charges: CCR Section 3323 (f)(8) - Attempted battery or battery on a prisoner with no serious injury and CCR Section 3323 (f)(9) - Mutual combat with no serious injury where the aggressor cannot be determined. Inmates found guilty of the attempted battery or battery charge will be referred to a classification committee for consideration of a Security Housing Unit (SHU) term. The mutual combat charge does not warrant a SHU charge.

Please inform all persons concerned of the contents of this bulletin which shall remain in effect until it is incorporated into the appropriate section of DOM. Any inquiries regarding this matter should be directed to Steve Crawford, Program Administrator, Institution Services Unit, at (916) 327-1082 or CALNET 467-1082.

R. H. DENNINGER  
Chief Deputy Director